

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Patrick Guess, # 253980,)	C.A. No. 9:08-2626-TLW-BM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Jon Ozmint, Agency Director;)	
Robert Ward, Division of Operations;)	
Dennis Patterson, State Classification Committee;)	
Kenny Robinson, Inmate; Juan Wright, Inmate;)	
and all involved parties,)	
)	
Defendants.)	
)	

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Bristow Marchant, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Marchant recommends that this Court dismiss without prejudice Kenny Robinson and Juan Wright as party defendants in this case. (Doc. # 22). Within the time period for filing objections, plaintiff filed a letter in which he indicated that he “received your motion for recommendation to remove the (2) inmate defendants. I apologize, but I thought they were to be included.” (Docs. # 26 & 27).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However,

the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto.

For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 22), and party defendants Kenny Robinson and Juan Wright are dismissed without prejudice.

IT IS SO ORDERED.

s/ Terry L. Wooten

TERRY L. WOOTEN

UNITED STATES DISTRICT JUDGE

December 2, 2008

Florence, South Carolina